IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 16896 of 2004

Between:

M/s. SRK Fine Chemicals, F-15, IDA Kukatpally, Ranga Reddy District, rep by Partner, MR. R. Satyanarayana

..... PETITIONER

AND

1 Deputy Commercial Tax Officer, Ferozguda Circle, Rangareddy District
2 M/s. Samrat Engineers, Flat No. 306 Mahalakshmi Estates, Rajeev Nagar, S.R.Nagar Post,Hyderabad 500 038

rep by Managing Partner Smt. K. Prasanna Kumari

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Certiorari or any other appropriate Writ or order or Directions calling for the records of the 1st respondent dt 10-09-2004 and quash the same as arbitrary, contrary to law and against the weight of evidence and probabilities of petitioner's case. Consequently grant stay of all further proceedings pursuant tot he notice of the 1st Respondent dt
10-09-2004 including eviction of the petitioner from the leased premises i.e. NO. F-15, IDA, Kukatpally

Counsel for the Petitioner: MR.M.V.PAVAN KUMAR

Counsel for the Respondent No.1: Mr.K.Raji Reddy, SPL.Stabdubg counsel for COMMERCIAL TAXes

The Court at the admission stage made the following :

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Order: (per Sri BRSR.J)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the legality and correctness of the notice dated 10.9.2004 issued by the 1st respondent herein proposing to auction the property in question which admittedly belongs to the 2nd respondent who is a defaulter in payment of the amounts due payable to the department. In our considered opinion, the petitioner has no locus to challenge the very auction notice issued by the 1st respondent herein. However, the 1st respondent herein requested the petitioner to vacate the premises which he could not have done so in our considered opinion. The petitioner cannot be thrown out from the premises in question to enable the Deputy Commercial Tax officer to auction the property which admittedly belongs to the 2nd respondent. To that limited extent, the petitioner is entitled for protection.

In the circumstances, this writ petition is disposed of leaving it open to the 1st respondent herein to proceed with the auction but without taking any coercive steps as against the petitioner for his eviction from the premises. There shall be an order accordingly. The writ petition is accordingly disposed of without any orders as to costs.

(B.SUDERSHAN REDDY,J)

dated 22.11.2004

(T.Ch.SURYA RAO,J)

msv.

To

1 Deputy Commercial Tax Officer,

Ferozguda Circle, Rangareddy District

2 CCs to Spl.standing counsel for Commercial Taxes, High Court

3. 2 CD copies.